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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/790,602	03/01/2004	Lyndsay Williams	306985.01	9169
22971	7590	05/23/2007		
MICROSOFT CORPORATION ONE MICROSOFT WAY REDMOND, WA 98052-6399			EXAMINER BERTRAM, ERIC D	
			ART UNIT 3766	PAPER NUMBER
			NOTIFICATION DATE 05/23/2007	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/790,602	WILLIAMS ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Eric D. Bertram	3766	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 21 March 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,4-17 and 20-43 is/are pending in the application.
- 4a) Of the above claim(s) 34-43 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4-17 and 20-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                      |                                                                   |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____                                                          | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed 3/21/07 regarding the 35 USC 103(a) rejections in view of Ishibashi and Grosvenor have been fully considered but they are not persuasive. The applicant argues that Ishibashi does not disclose that detection of a capture condition followed by detection of a stable condition causes capture of an image by a camera. The Examiner respectfully disagrees. As stated in the previous Office Action and below, Ishibashi discloses that if the head orientation detecting unit detects a capture condition in that the head orientation has not greatly changed (step #45). If this capture condition is followed by the detection of a stable head orientation by the head orientation detecting unit at step #50, then an image capture is triggered at step #70 (see figure 4 and Col. 4, lines 47-51). The fact that the detection of the two conditions also results in the selection of an operation mode is irrelevant, since the transitional phrase of the preamble is "comprising." Therefore, as long as the claim limitations are met by the reference, further steps may also be included. Ishibashi clearly discloses that if the capture condition is followed by a stable condition, the capture of at least one image by a video camera is initiated. As is known by one of ordinary skill in the art, a video camera, while producing continuous moving imagery, is actually taking a plurality of still images at an extremely high speed, i.e., the individual frames of a movie. Therefore, the 35 USC 103(a) rejections of claims 1, 4, 7-15, 17, 20 and 23-31 are still considered proper.

2. Applicant's arguments with respect to claims 5, 6, 16, 21, 22, 32 and 33 have been considered but are moot in view of the new ground(s) of rejection, necessitated by applicant's amendment.

***Claim Rejections - 35 USC § 101***

3. The amendments to claim 32 are acknowledged and accepted. AS a result, the 35 USC 101 rejection of claim 32 has been withdrawn.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

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not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 1-4, 7-15, 17-20 and 23-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ishibashi (US 6,558,050) in view of Grosvenor et al. (US 2003/0025798, hereinafter Grosvenor). Ishibashi discloses a portable recall device 1 that is configured to be carried by a wearer as shown in figure 1. The device includes a camera, as well as a three dimensional head orientation detecting unit 4 (Col. 2, lines 30-56). As shown in figure 4, if the head orientation detecting unit detects a capture condition in that the head orientation has not greatly changed (step #45). If this capture condition is followed by the detection of a stable head orientation by the head orientation detecting unit at step #50, then an image capture is triggered at step #70. However, Ishibashi is silent as to whether the head orientation detecting unit comprises at least one accelerometer or a gyroscope. While the use of gyroscopes and/or accelerometers are notoriously old and well known in the art for detecting rotational/angular movement of an object, attention is directed to the secondary reference of Grosvenor, which discloses the use of one or more gyroscopes or accelerometers to measure movement of a camera that is attached to a user (par. 0068). Specifically, Grosvenor discloses the use of a plurality of accelerometers for detecting rotation along three axes (par. 0069). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to modify the device of Ishibashi by using at least one gyroscope or accelerometer to detect

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angular/rotational movement since Grosvenor demonstrates that they would be fully capable of detecting the head orientation of a subject.

8. Regarding claims 3, 4, 8, 19, 20 and 24, Ishibashi discloses in figure 4 that if a capture condition is detected at step #10 such that a change in ambient sounds is detected but speaking is not, then a stable condition detected at step #50 triggers the capture of an image (Col. 2, lines 57-60 and Col. 4, line 21). Furthermore, the audio data may be recorded in recording unit 12 (Col. 3, lines 15-18)

9. Regarding claims 7, 15, 23 and 30, Ishibashi discloses in figure 4 that if a capture condition is detected at step #35 such that the quantity of change in pupil diameter is not lower than a predetermined level (which can be caused by a change in lighting), then a stable condition detected at step #50 triggers the capture of an image (Col. 4, lines 29-31).

10. Regarding claims 9 and 25, Ishibashi discloses in figure 4 that if a capture condition is detected at step #25 such that the quantity of change in body temperature is not lower than a predetermined level (which can be caused by a change in ambient temperature), then a stable condition detected at step #50 triggers the capture of an image (Col. 4, lines 25-26).

11. Regarding claims 11 and 27, Ishibashi discloses in figure 4 that if a capture condition is detected at step #15 such that the increase in pulse rate is not lower than a predetermined level, then a stable condition detected at step #50 triggers the capture of an image (Col. 4, lines 22-23).

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12. Regarding claim 32, although Ishibashi is silent as to whether the method is stored on a computer readable medium, the controller would inherently need to be programmed in order to perform the method as described above. As is notoriously well known in the art, the use of a computer readable medium would be one such way of programming the controller.

13. Claims 5, 6, 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ishibashi and Grosvenor in view of Horimoto (US 4,009,943). Ishibashi, as modified and described above, discloses the applicant's basic invention with the exception of using a wide-angle, fish-eye lens. However, the use and advantages of a wide-angle, fish-eye lens is notoriously old and well known in the art, as taught by Horimoto (Col. 1, lines 11-13). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to modify the device of Ishibashi, as modified, by including a wide-angle, fish-eye lens in order to capture the true perspective of what the actual object would appear to an observer (Col. 1, lines 13-18).

14. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ishibashi and Grosvenor in view of Moultrie, Jr. (US 2002/0159770, hereinafter Moultrie). Ishibashi, as modified and described above, discloses the applicant's basic invention with the exception of the capture condition comprising detecting a change in the signal from a passive infrared detector triggered by heat from a person in the proximity of the camera. Attention is directed to the secondary reference of Moultrie, which discloses a camera that is activated by detecting a change in the signal from a passive infrared

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detector triggered by heat from an animal in the proximity of the camera (see abstract).

Therefore, it would have been obvious to one of ordinary skill in the art to modify the camera of Ishibashi, as modified, by adding capture condition detection with an infrared sensor as taught by Moultrie in order to make the system automatic and allow the user to take images of interest without having to be with the camera.

15. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ishibashi and Grosvenor in view of Shiozaki et al. (US 5,978,603, hereinafter Shiozaki).

Ishibashi, as modified and described above, discloses the applicant's basic invention with the exception of the device being capable of playing digital media. However, attention is directed to the secondary reference of Shiozaki, which discloses a digital camera 1 that is capable of displaying digital media on a LCD display 4 (see figure 2). Therefore, it would have been obvious to replace the film camera of Ishibashi, as modified, with the art-recognized equivalent digital camera of Shiozaki in order to allow a user to preview images on the display and delete unwanted images without wasting film.

### ***Conclusion***

16. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric D. Bertram whose telephone number is 571-272-3446. The examiner can normally be reached on Monday-Thursday from 8:30-7 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Layno can be reached on 571-272-4949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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